IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22852 of 2004

Between:

Smt. A. Mangamma, W/o. Venkatarao Naidu,
residing at D.No. 8-519(A), Kothapeta Gandla Street, Srikalahasti, Chittoor District.

..... PETITIONER

AND

The Mandal Revenue Officer, Srikakulahasti Mandal, Chittoor District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the respondent in proposing to demolish the compound wall and a portion of the building bearing D.No. 8-519(A) situated at Kothapeta Gandla Street, Srikalahasti, Chittoor District without following the due process of law as illegal arbitrary and consequently direct the respondent not to demolish the compound wall and a portion of the building and pass such other or further orders

Counsel for the Petitioner:MR.R.CHANDRA REDDY

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the admission stage made the following :

ORDER:

This writ petition is filed seeking a writ of Mandamus to declare the action of the respondent, in proposing to demolish the compound wall and a portion of the building bearing D.No.8-519(A) situated at Kothapeta Gandla street, Srikalahasti, Chittoor District, without following the due process of law, as illegal and arbitrary.

The case of the petitioner is that he purchased the land under registered sale deed and made some constructions. Now the grievance of the petitioner is that the respondent is trying to demolish the constructions made in the said land on the ground of encroachment, without following the due process of law.

The learned Government Pleader for Revenue submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land or before demolishing any structures.

The Division Bench dealing with batch of cases where for the purpose of road widening, the Revenue, Panchayat Raj and Municipal authorities sought to demolish the houses or structures abutting the road, issued certain guidelines which are as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Learned Government Pleader for Revenue, does not dispute the legal position. Both counsel agreed for disposal of the writ petition at the admission stage.

The Writ Petition is disposed of as above, directing maintenance of status quo existing as on today. No costs.

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N.V. RAMANA, J

Date: 10-12-2004

Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1..The Mandal Revenue Officer, Srikakulahasti Mandal, Chittoor District.

2.2CCs to G.P. for Revenue, High Court of A.P. Buildings, Hyderabad(OUT)

3.2CD copies

4.2CCs to

*Form-NIC-OGS/WP{**RLD**}*